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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,311	07/31/2003	Louis Kovach	510685-163	1877

23879 7590 10/16/2006  
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EXAMINER

MCCARRY JR, ROBERT J

ART UNIT PAPER NUMBER

3617

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/631,311	Applicant(s) KOVACH ET AL.	
	Examiner Robert J. McCarry, Jr.	Art Unit 3617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-31 and 33-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-31 and 33-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-31 and 33-46 rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al (US 5,749,547) in view of Young et al (US 5,251,856).

Young et al (547) discloses a remote control system for a model train comprised of a user interface in the form of a remote control 12 that is operably connected to a controller 14. The controller contains a microprocessor that receives signals from the remote control 12, interprets them and transmits them through the track to the train. The processor uses a conventional DC offset signal as described in column 5 lines 10-50. The remote 12 is further comprised of buttons for various train controls, as shown in figure 2, and a rotating knob 36 for varying the speed of the train. The speed is varied by varying the voltage of the signal transmitted from the remote 12 and detected and transmitted by the processor. The controller 14 is connected to an electric transformer. The processor in the controller 14 interprets the signal from the remote control 12 and communicates with the transformer as to how much voltage to apply to the track to control the rate of speed of the train. Both the controller 14 and transformer are electrically and mechanically connected to the track, shown in figure 1.

Young et al (547) discloses the system as disclosed above. However Young et al (547) does not disclose the use of a voltage sensor to determine the voltage from the transformer, nor does Young et al (547) disclose the controller to determine the speed of the train responsive to the sensor. Young et al (856) discloses a train control system comprised of voltage sensors U1A and U1B which monitor the voltage provided to the train from the transformer. The controller 114 sends signals to a base unit which take in the information from the controller 114 and the sensors U1A and U1B. It would have been obvious to one of ordinary skill in the art to have applied voltage sensors, like those used in Young et.al (856) to the system of Young et al (547) in order to better monitor the speed of the train and to better convey command messages to the vehicles with out causing damage to the system or the vehicles.

Regarding claims 27-31 drawn to the method of controlling the speed of a model train. Since the combination of references described above discloses the same structure, it is inherent that the structure would be operated in the same manner.

### ***Response to Arguments***

Applicant's arguments filed 08/03/06 have been fully considered but they are not persuasive. Applicant argues that the prior art combination does not adequately disclose the features of the instant invention. The applicant argues that Young et al '547 does not allow for varying voltage signals applied to the track to be converted and transmitted in RF. Column 3 at the beginning of the detailed description of the invention discusses the transmission of RF signal to the vehicle on the track. The applicant further

Art Unit: 3617

argues that the system of Young et al '547 is the opposite of the invention in that the instant invention allows for a conventional controller to control a modern vehicle. There is no specific mention of this in the claims. The claims call for a transformer with means for manually setting the voltage and various other controllers and transmitters. However, the claims do not recite that the transmitters and controllers be of a conventional design. Young et al '547 does show a series of manual settings on the remote control in that the user must press the buttons of the control and operate the knob 36 to control the speed of the unit.

Applicant also argues that there is no motivation to combine the references of Young et al '547 and Young et al '586. While not a literal combination the Examiner has used the reference of Young et al '586 as a teaching to show that voltage sensors are well known in the field of model trains. One of ordinary skill would understand that, in reading Young et al '586, that voltage sensors could be used in various realms of model train use to aid in the control of various vehicles.

In regards to the connecting of various components of the combination, Young et al '547 discloses a remote control in communication with various modules and switch controllers as well as a base unit. While not physically connected, they are electrically connected by way of the signals passed back and forth between the components.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3617

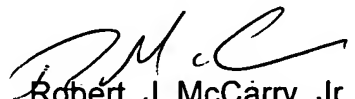
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert J. McCarry, Jr.  
Patent Examiner  
Art Unit 3617

RJM  
October 11, 2006



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